

REMARKS

Claims 1, 3-11 are pending. Claim 2 has been cancelled and claims 12-17 have been previously cancelled without prejudice or disclaimer to the subject matter to which they pertain. Claims 1 and 11 have been amended. No new matter has been added. . Applicants respectfully reserve the right to file continuing applications.

Applicants gratefully acknowledge the Examiners' reconsideration and withdrawal of the finality of the previous Office action pursuant to 37 C.F.R. §1.114, and entry of Applicants Request for Continued Examination filed on January 24, 2005.

Applicants gratefully acknowledge the Examiner's reconsideration and withdrawal of the rejections under 35 U.S.C. §101.

Objections

Claim 2 is objected to for assertedly including subject matter which has been non-elected due to a restriction requirement; and therefore, assertedly withdrawn from consideration. Applicants traverse this withdrawal for reasons of record and to the extent such objection is obviated in view of the herein claimed invention. Claim 2 has been cancelled without prejudice to or disclaimer of the subject matter to which it pertains. Applicants respectfully request reconsideration and withdrawal of this objection.

Rejections Under 35 U.S.C. §112, second paragraph

Claims 1-11 are rejected under 35 U.S.C. §112, second paragraph (indefiniteness), as allegedly being indefinite for the limitation of "at least one copy of a polynucleotide" in claim 1(a) and claim 11(a). Applicants respectfully traverse this rejection to the extent it applies to the herein claimed invention. Claims 1 and 11 have been amended to recite "at least one copy of the polynucleotide" to part (b) of claims 1 and 11. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

Claims 1-11 remain rejected under 35 U.S.C. §112, second paragraph (indefiniteness), as allegedly being indefinite for the limitation of "the complement" in claim 1(b) and claim 11(b). Applicants respectfully traverse this rejection to the extent it applies to the herein claimed invention. Claims 1 and 11 no longer recite the limitation "the complement". Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejections Under 35 U.S.C. §112, first paragraph

Claims 1- 11 are rejected under 35 U.S.C. §112, first paragraph (written description), as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection to the extent it applies to the herein claimed invention, and for the reasons of record. The claimed invention is directed to a genus of variants specifically set forth and tested in the specification. See at least Example 8 and Table 3 on pages 27-28 of the specification. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejections Under 35 U.S.C. §102

Claims 1-11 are rejected under 35 U.S.C. §102 for allegedly being anticipated by Millar et al. (May 1999). Applicants traverse this rejection to the extent it applies to the herein claimed invention and for at least the following reasons. Applicants respectfully submit that Millar et al. does not anticipate the claimed invention. Millar et al. does not teach or disclose the variants as set forth in claims 1 and 11 (b)(i) through (vi). Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

CONCLUSION

Early consideration, entry of the Amendment and Reply, favorable consideration and prompt allowance of the pending claims are respectfully believed to be in order and respectfully requested. If anything else is necessary to place this application in condition for allowance, e.g., by Examiner's Amendment, Applicant respectfully requests that the Examiner contact the undersigned representative at the telephone number listed below.

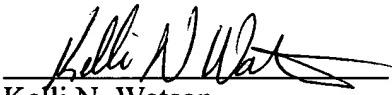
To the extent necessary, please grant any extension of time deemed necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account 500417.

Respectfully submitted,

McDERMOTT, WILL & EMERY LLP

Date: 6/8/2005

By:


Kelli N. Watson
Registration No. 47,170

600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096
(202) 756-8351 (Direct)
(202) 756-8087 (Facsimile)

WDC99 1092275-1.050229.0287